

EXTENSIONS OF REMARKS

OUR FLAWED ENCRYPTION POLICIES

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1996

Ms. ESHOO. Mr. Speaker, today we are considering the Export Control Act, which governs the export of dual use technologies. Ironically, it does not govern the export of encryption software, which is considered a munition, and is regulated under the Arms Export Control Act. In fact, encryption software is absolutely vital in national security, electronic commerce, and personal privacy applications. I can't imagine a technology that has more civilian as well as defense applications—the very definition of dual use.

I am very concerned that current Federal controls are holding American high tech companies back from developing and marketing superior encryption products. While I understand that these controls are aimed at keeping powerful encryption out of the hands of terrorists and hostile nations, they are succeeding only in keeping foreign customers away from American products.

As you know, current U.S. policy only allows export of software with 40-bit encryption, while most encryption users prefer stronger 56-bit products that are already available on the Internet and from foreign manufacturers. In fact, over 200 foreign encryption programs are now available in 21 countries.

This imbalance between what the market wants and U.S. law allows is creating a major economic problem for American companies. An industry study found that current export restrictions could cost U.S. businesses \$30 billion to \$60 billion by the year 2000.

Further, current restrictions on U.S. encryption exports limit the types of products available here at home. It can be prohibitively expensive for companies to make two versions of the same software—a weak package for export and a strong package for domestic consumption. As a result, Americans often only have access to weaker encryption products.

The administration has responded to this situation with a proposal that is inadequate at best. It would let U.S. companies export software with stronger encryption—up to 64-bits—but only if a key escrow system is attached. This key escrow system would require a third party located in the United States (or where we have bilateral escrow agreements) to have the key to encrypted material so the American Government could gain access to it if the United States determines that our national security is at stake.

This plan is flawed for several reasons. Few foreign consumers are going to buy American encryption software that's compromised by our Government. Further, without stringent safeguards, the administration plan opens the door to potential Government violations of personal privacy. And it ignores the fact that foreign

encryption programs without key escrow requirements are already widely available.

I support a stronger, bipartisan effort to relax U.S. export restrictions while protecting our national security interests. The Security and Freedom Through Encryption Act [SAFE] would ensure that Americans are free to use any encryption package anywhere, prohibit mandatory key escrow schemes, guarantee companies the ability to sell any encryption package within the United States, and make it unlawful to use encryption to commit a crime.

Most important, it would allow U.S. businesses to export encryption software if products with comparable security capabilities are commercially available from a foreign supplier. In effect, American encryption exports would be stronger, but offer no greater threat to the United States than other products already being used abroad.

Reforming America's encryption export policy is important for high tech companies hoping to increase their sales, businesses that want better security for their computers, online entrepreneurs looking to tap a global market for their services, and e-mail users who desire more privacy for their electronic messages. SAFE offers a way to achieve all these goals and protect our national security interests at the same time.

LAWMAKER TRANSCENDED TYPICAL WASHINGTON POLITICS

HON. PAT DANNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1996

Ms. DANNER. Mr. Speaker, this opinion piece by Ken Newton of the St. Joseph News-Press summarizes the feelings of so many people who have admired the late Congressman Bill Emerson of Missouri. I would like to place this article in the CONGRESSIONAL RECORD so it can be recorded in history with the other fine tributes to Bill Emerson.

[From the St. Joseph News-Press, June 30, 1996]

LAWMAKER TRANSCENDED TYPICAL WASHINGTON POLITICS

(By Ken Newton)

Here's a note from my career filed as a missed opportunity.

The congressman was in his home district conducting a farm tour, and I drew the reporting assignment, a warm morning at a university livestock facility. The school's agriculture chairman was anxious to show off the prize boar, which seemed more than up to the task as it trotted out of its pen, strode up to its guest and, as if scripted, relieved itself at the congressman's feet.

Oblivious to the affront, the hog became the only creature present not caught up in embarrassment or surprise. I slapped my forehead, wishing I had a camera ready.

Bill Emerson, diminished to a fireplug by an incontinent animal, took it well, shaking off his shoes and moving on to whatever came next. Life in Washington teaches you to roll with the punches.

I remembered this when I learned Congressman Emerson, who represented Southeast Missouri in Congress 15 years, died last weekend at age 58.

He was elected U.S. representative five months after I became a newspaperman, and our career paths crossed numerous times. Helped into office by Ronald Reagan's coat-tails in 1980, he beat a long-time incumbent whom constituents believed cared more for Jimmy Carter's attention than their interests.

Thus, Mr. Emerson became the first non-Democrat to hold the Southeast Missouri congressional seat in four decades. In the cotton-rich reaches of New Madrid County, where I grew up, they tolerated boll weevils more readily than Republicans, yet the congressman managed to win seven subsequent elections. The nick-name for the growing legion of crossover voters was "Emercrats."

Other Republican congressional hopefuls didn't have such luck in those days, and Mr. Emerson became a working-stiff representative in the out-numbered party. He paid attention to his agricultural constituency, went about the business of serving his district and occasionally called out back-bencher objections to Tip O'Neill and Jim Wright and Tom Foley, the power brokers of his chamber.

Defying the stereotype of the GOP as compassionless, Mr. Emerson adopted world hunger issues as his own. He championed the international aid program known as Food for Peace, and struck up an unlikely alliance with House colleague Mickey Leland, the Houston Democrat who died when his plane crashed during a fact-finding mission to Ethiopia in 1989.

The urban African-American and rural Republican were strange bedfellows who traveled together to famine-stricken areas a number of times, bound by a cause and not separated by partisanship. When Mr. Leland died, the Missourian's eulogy was among the most moving.

The glorious irony of Mr. Emerson's tenure in Congress is that his success as a lawmaker grew from inaccessibility to power. For his first seven terms, he waded into his duties without the necessity of kissing up to leadership or the lure of landing committee chairmanships; only majority members needed to apply. Instead he became a representative in the true sense of that title.

The accompanying sad irony is that 10 months into the Newt Revolution, when his party finally had the power, Mr. Emerson was diagnosed with the lung cancer that would kill him.

It is fashionable to regard members of Congress cynically, as hogs gone to trough, greedy souls looking only to perpetuate their political careers and attendant perks. No doubt, those views are justified with some. With many, the names that might not make the Sunday morning programs or vice presidential short lists, the call to public service is enough of a job and a reward.

Bill Emerson, a good Missourian of low profile in life, should be remembered that way.

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